

MEMORANDUM

Agenda Item No. 10(A)(19)

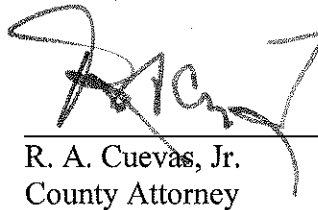
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: August 23, 2012

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution calling a special election in Miami-Dade County to be held with the general election on November 6, 2012 for the purpose of submitting to the electors of Miami-Dade County whether to establish an elected police director as a charter office

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Chairman Joe A. Martinez.



R. A. Cuevas, Jr.
County Attorney

RAC/lmp



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: August 23, 2012

FROM: R. A. Cuevas, Jr.
County Attorney

A handwritten signature in black ink, appearing to read "R. A. Cuevas, Jr.", is written over the printed name of the County Attorney.

SUBJECT: Agenda Item No. 10(A)(19)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☒ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 10(A)(19)
8-23-12

RESOLUTION NO. _____

RESOLUTION CALLING A COUNTYWIDE SPECIAL ELECTION IN MIAMI-DADE COUNTY, FLORIDA, TO BE HELD IN CONJUNCTION WITH A GENERAL ELECTION ON TUESDAY, NOVEMBER 6, 2012, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF MIAMI-DADE COUNTY THE QUESTION OF WHETHER TO ESTABLISH AN ELECTED POLICE DIRECTOR AS A CHARTER OFFICE

WHEREAS, The Board of County Commissioners pursuant to Section 9.07 of the Miami-Dade County Home Rule Charter desires to place the attached Charter amendment before the electors of Miami-Dade County on the November 6, 2012 General Election ballot,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. A countywide special election is hereby called and shall be held in Miami-Dade County, Florida in conjunction with a General Election on Tuesday, November 6, 2012, for the purpose of submitting to the qualified electors of Miami-Dade County the proposal for amendment to the Home Rule Charter in the form attached hereto and made a part hereof.

Section 2. Notice of such election shall be published in accordance with Section 100.342, Florida Statutes.

Section 3. The result of such election shall be determined by a majority of the qualified electors of Miami-Dade County voting upon the proposal. The polls at such election shall be open from 7:00 a.m. until 7:00 p.m. on the day of such election. All qualified electors of Miami-Dade County, Florida shall be entitled to vote at said election. The County registration books shall remain open at the Office of the Miami-Dade County Supervisor of Elections until twenty-nine (29) days prior to the date of such election, at which time the registration books will

close in accordance with the provisions of general election laws. The question shall appear on the ballot in substantially the following form:

CHARTER AMENDMENT ESTABLISHING
ELECTED POLICE DIRECTOR
AS A CHARTER OFFICE

SHALL THE CHARTER BE AMENDED TO PROVIDE THAT, COMMENCING IN 2014, THE OFFICE OF POLICE DIRECTOR SHALL BE AN ELECTED CHARTER OFFICE RATHER THAN APPOINTED BY THE MAYOR, WHO SHALL HAVE MORE INDEPENDENCE THAN THE CURRENT ADMINISTRATIVE POLICE DIRECTOR, AND WHO MAY BE RECALLED BY VOTERS RATHER THAN BE SUBJECT TO SUSPENSION, REPRIMAND, REMOVAL OR DISCHARGE AT THE DISCRETION OF THE MAYOR?

YES ☐

NO ☐

Section 4. The form of the ballot shall be in accordance with the requirements of general election laws.

Section 5. Early voting shall be conducted in accordance with the requirements of general election laws.

Section 6. Absentee paper ballots may be used by qualified electors of Miami-Dade County for voting on this question. The form of such absentee ballot shall be in accordance with the requirements prescribed by general election laws.

Section 7. A sample ballot showing the manner in which the question or proposal aforesaid will appear at this election shall be published and provided in accordance with the applicable provisions of general election laws.

Section 8. This special election on the proposal aforesaid shall be held and conducted in accordance with applicable provisions of the general laws relating to elections and the provisions of the Miami-Dade County Home Rule Charter. The County Mayor or his or her

designee, the Finance Director, and the Clerk of the County Commission are hereby authorized and directed to take all appropriate actions necessary to carry into effect and accomplish the provisions of this resolution. This election shall be a nonpartisan election. Election officials in connection with this election shall be appointed in accordance with the provisions of general election laws.

Section 9. This election shall be canvassed by the County Canvassing Board, in accordance with the provisions of Section 3.07 of the Home Rule Charter.

The Prime Sponsor of the foregoing resolution is Chairman Joe A. Martinez. The foregoing resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, vote was as follows:

Joe A. Martinez, Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 23rd day of August, 2012. This resolution shall become effective upon the earlier of (1) ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Oren Rosenthal

MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE - 1¹

* * *

SECTION 1.07. - VACANCIES.

Any vacancy in the office of >>Miami-Dade County Police Director,<< Mayor or the members of the Board shall be filled by majority vote of the remaining members of the Board within 30 days, or the Board shall call an election to be held not more than 45 days thereafter to fill the vacancy. The person chosen to fill the office vacated must at the time of appointment meet the residence requirements for the office to which such person is appointed. A person appointed shall serve only until the next county-wide election. A person elected shall serve for the remainder of the unexpired term of office. If a majority of the members of the Board should become appointed rather than elected to office, then the Board shall call an election to be held not more than 45 days thereafter to permit the registered electors to elect commissioners to succeed the appointed commissioners; appointed commissioners may succeed themselves unless otherwise prohibited by the Charter. If a county-wide election is scheduled to be held within 180 days from the date on which the majority of the members of the Board become appointive, the Board may elect to defer the required election until the scheduled county-wide election

* * *

ARTICLE - 3

SECTION 3.01. - ELECTION AND COMMENCEMENT OF TERMS OF COUNTY COMMISSIONERS>>, THE MAYOR AND THE POLICE DIRECTOR<<.

A. The election of the Commissioners from even-numbered districts shall be held in 1994 and every four years thereafter and the election of Commissioners from odd-numbered districts shall be held in 1996 and every four years thereafter at the time of the state primary elections.

B. A candidate must receive a majority of the votes cast to be elected. ~~[[Effective with the election for County Commission in 2004,]]~~ if no candidate receives a majority of the votes cast there will be a runoff election at the time of the general election following the state primary election between the two

¹Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

candidates receiving the highest number of votes. Should a tie result, the outcome shall be determined by lot.

C. Except as otherwise provided in this Charter~~[[, beginning with the elections in 2004,]]~~ the terms of office of the >>Miami-Dade County Police Director,<< Mayor and County Commissioners shall commence on the second Tuesday next succeeding the date of the general election in November.

D. Notwithstanding any other provision of this Charter, effective with the term of Mayor scheduled to commence in October, 1996, no person shall be elected as Mayor for more than two consecutive four-year terms. Neither service as Mayor or County Commissioner prior to the terms scheduled to commence in October, 1996, nor service of a partial term subsequent to October, 1996, shall be considered in applying the term limitation provisions of this section.

* * *

SECTION 3.04. - QUALIFICATIONS AND FILING FEE.

A. All candidates for the office of >>Miami Dade County Police Director,<< Mayor or County Commissioner shall qualify with the Clerk of the Circuit Court no earlier than the 84th day and no later than noon on the 70th day prior to the date of the election at which he is a candidate in the method provided by law or ordinance, and shall pay a filing fee of \$300. All filing fees shall be paid into the general funds of the county.

B. Notwithstanding the foregoing, a person who seeks to qualify as a candidate for the office of >>Miami-Dade County Police Director,<< Mayor or County Commissioner and who meets the petition requirements of this section is not required to pay the filing fee required by this section or any other qualifying fee required by the state (collectively the "Qualifying Fee"). A candidate who seeks to qualify without paying the Qualifying Fee must obtain the number of signatures of voters in the geographical area represented by the office sought equal to at least 1 percent of the total number of registered voters of that geographical area, as shown by the compilation by the Supervisor of Elections for the immediately preceding general election. Signatures may not be obtained until the candidate has filed the appointment of campaign treasurer and designation of campaign depository pursuant to state law. The format of the petition shall be prescribed by the Supervisor of Elections and shall be used by candidates to reproduce petitions for circulation. Each petition must be submitted before noon of the 28th day preceding the first day of the qualifying period for the office sought to the Supervisor of Elections. The Supervisor shall check the signatures on the petitions to verify their status as voters in the geographical area represented by the office sought. No later than the 7th day before the first day of the qualifying period, the Supervisor of Elections shall certify the number of valid signatures. The Supervisor of Elections shall determine whether the required

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number of signatures has been obtained and shall notify the candidate. If the required number of signatures has been obtained, the candidate shall be eligible to qualify pursuant to this section without paying the Qualifying Fee.

* * *

ARTICLE - 5

ADMINISTRATIVE ORGANIZATION AND PROCEDURE

SECTION 5.01. DEPARTMENTS.

There shall be departments of finance, personnel, planning, law, >>police<< and such other departments as may be established by administrative order of the Mayor. All administrative functions not otherwise specifically assigned to others by this Charter shall be performed under the supervision of the Mayor.

* * *

>>SECTION 5.09. DEPARTMENT OF POLICE.

Commencing with the primary election to be held in 2014, and every four years thereafter, the Miami-Dade County Police Director shall be elected on a non partisan basis, by a majority of the qualified electors voting at a county-wide election held within Miami-Dade County. The Miami-Dade County Police Director shall be the head of the Miami-Dade Police Department and shall carry out the policies adopted by the Board of County Commissioners and shall not be subject to the provisions of Article 2 of the Charter except as set forth herein. The Miami-Dade County Police Director shall designate a qualified law enforcement officer of the County to assume the duties and authority of the Police Director during periods of temporary absence or disability of the Police Director, unless disapproved by a two-thirds vote of the Commissioners then in office at the Commission's next regularly scheduled meeting. Except for budgeting, funding, and emergency management matters, the police director shall perform his or her duties independent of and without supervision from the Mayor or the Commission.<<

* * *

ARTICLE- 8

* * *

SECTION 8.02. - RECALL.

Any member of the Board of County Commissioners, the Mayor, the Property Appraiser, ~~[[the Sheriff or Constable]]~~ >>Police Director<< may be removed from office by the electors of the county, district, or municipality by which he was chosen. The procedure on a recall petition shall be identical with that for an initiatory or referendary petition, except that:

* * *

ARTICLE-9

GENERAL PROVISIONS

Section 9.01. ABOLITION OF CERTAIN OFFICES AND TRANSFER OF FUNCTIONS

* * *

C. On November 9, 1966, the Office of Sheriff is hereby abolished and the powers and functions of such office are hereby transferred to the Mayor, who shall assume all the duties and functions of this office required under the Constitution and general laws of this state. ~~[[The Mayor may delegate to a suitable person or persons the powers and functions of such office.]]~~ >>On the second Tuesday next succeeding the date of the general election in November 2014, the powers and functions of the Office of Sheriff are transferred from the Mayor to the Miami-Dade County Police Director. The powers and functions transferred to the Miami-Dade County Police Director shall not include those which pertain to corrections and the operation of the County jails and detention facilities and the custody of the prisoners therein, but shall include such other powers and responsibilities as a set forth in state law or County Ordinance.<<